

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

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|--------------------|---|----------------------------|
| CHARLES LEE BOOTHE | § | |
| VS. | § | CIVIL ACTION NO. 6:13CV191 |
| FNU PRICE, ET AL. | § | |

ORDER DENYING PLAINTIFF'S MOTION FOR A
TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION

The above-entitled and numbered civil action was heretofore referred to a United States Magistrate Judge,¹ who issued a Report and Recommendation concluding that the Plaintiff's "Emergency Motion for Extraordinary Relief *Ex Parte*" (docket entry #10), which the Court construes as a Motion for a Temporary Restraining Order and/or a Preliminary Injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure, should be denied. Plaintiff has filed written objections. However, the objections do not clarify whether the Kline Animal Shelter is a government agency for the purpose of establishing state action in this 42 U.S.C. § 1983 case as discussed in the Report and Recommendation. Instead, Plaintiff offers only speculation on that point. Further, his arguments as to the requirements of Fed. R. Civ. P. 65 are also speculative and conclusory. Accordingly, the objections are without merit and will be overruled.

The Court has conducted a careful *de novo* review of the pleadings in this case, the Report of the Magistrate Judge, the Plaintiff's objections thereto, and all other documents, and records in

¹ Originally referred to Magistrate Judge Judith K. Guthrie, who issued the Report and Recommendation that is the subject of this Order, before retiring. The case is currently referred to Magistrate Judge K. Nicole Mitchell.

the case. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the Plaintiff's objections are without merit. It is accordingly

ORDERED that Plaintiff's objections are **OVERRULED** and the Report of the Magistrate Judge is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that Plaintiff's constructive Motion for a Temporary Restraining Order and/or a Preliminary Injunction (docket entry #10) is hereby **DENIED**.

So ORDERED and SIGNED this 22nd day of January, 2014.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE